

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF IOWA  
WESTERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

SHELLE MARIE BROOKS,

Defendant.

**No. 10-CR-4042-DEO**

**ORDER ACCEPTING REPORT  
AND RECOMMENDATION  
CONCERNING GUILTY PLEA**

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**I. INTRODUCTION AND BACKGROUND**

On May 20, 2010, a two count Indictment with forfeiture allegation (Docket No. 2) was returned in the above-referenced case.

Count 1 of the Indictment charges that on or between October 1, 2002, and April 14, 2010, in the Northern District of Iowa and elsewhere, defendant Shelle Marie Brooks, knowingly and unlawfully combined, conspired, confederated, and agreed with other persons, known and unknown to the Grand Jury, to:

(1) distribute 500 grams or more of methamphetamine mixture, which contained 50 grams or more of actual (pure) methamphetamine, a Schedule II controlled substance, in violation of 21 U.S.C. §§ 841(a)(1) and 841(b)(1)(A); and

(2) distribute 500 grams or more of methamphetamine mixture, which contained 50 grams or more of actual (pure) methamphetamine, a Schedule II controlled substance, within 1,000 feet of Harris/Lake Park Elementary School, located at 105 Avenue "A" West, Lake Park, Dickinson County, Iowa, in violation of 21 U.S.C. §§ 841(a)(1), 841(b)(1)(A) and 860(a); after defendant, Shelle Marie Brooks, was previously convicted of at least one felony drug offense, to wit: on March 27, 2000, defendant, Shelle Marie Brooks, was convicted in the Iowa District Court for Clay County, of the felony crime of Possession With The Intent to Deliver a Controlled Substance, to-wit: Five(5) Grams or Less of Methamphetamine, in Case Number FECR009869.

This was in violation of Title 21, United States Code, Sections 846, 851, and 860(a).

Count 2 of the Indictment charges that on or about February 8, 2010, in the Northern District of Iowa, defendant, Shelle Marie Brooks, knowingly and intentionally possessed with the intent to distribute and aid and abet the possession with the intent to distribute 5 grams or more of actual (pure) methamphetamine, a Schedule II controlled substance, after

defendant, Shelle Marie Brooks, was previously convicted of at least one felony drug offense, to-wit: on March 27, 2000, defendant, Shelle Marie Brooks, was convicted in the Iowa District Court for Clay County, of the felony crime of Possession With The Intent to Deliver a Controlled Substance, to-wit: Five(5) Grams or Less of Methamphetamine, in Case Number FECR009869.

This was in violation of Title 21, United States Code, Sections 841(a)(1), 841(b)(1)(B), and 851, and Title 18, United States Code, Section 2.

The Indictment contains a forfeiture allegation stating that upon conviction of one or more of the controlled substance offenses alleged in Counts 1 & 2 of the Indictment, defendant, Shelle Marie Brooks, shall forfeit to the United States pursuant to 21 U.S.C. § 853, any property constituting, or derived from, proceeds obtained, directly or indirectly, as a result of the said violations and any property used, or intended to be used, in any manner, or part, to commit, or to facilitate the commission of the said violations, including but not limited to the following:

## MONEY JUDGMENT

A sum of money equal to \$100,000.00<sup>1</sup> in United States currency, representing the amount of proceeds generated from illegal activity.

If any of the above-described forfeitable property, as a result of any act or omission of the defendant:

- 1) cannot be located upon the exercise of due diligence;
- 2) has been transferred or sold to, or deposited with, a third party;
- 3) has been placed beyond the jurisdiction of the court;
- 4) has been substantially diminished in value; or
- 5) has been commingled with other property which cannot be divided without difficulty; it is the intent of the United States, pursuant to 21 U.S.C. §853(p), to seek forfeiture of any other property of said defendant up to the value of the forfeitable property described above.

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<sup>1</sup> The Court notes that this amount was reduced to \$10,000.00 pursuant to a plea agreement between the United States Attorney's Office and Defendant Brooks (See Docket No. 48).

On April 29, 2011, defendant Shelle Marie Brooks appeared before Chief United States Magistrate Judge Paul A. Zoss and entered a plea of guilty to Counts 1 and 2 of the Indictment.

The Report and Recommendation (Docket No. 50, 03/30/2011), states that the Defendant is pleading guilty pursuant to a plea agreement (Docket No. 48), and Chief United States Magistrate Judge Paul A. Zoss recommends that defendant Shelle Marie Brooks' guilty plea be accepted. Waivers of objections to Judge Zoss's Report and Recommendation were filed by each party (Docket Nos. 51 and 52). The Court, therefore, undertakes the necessary review to accept defendant Shelle Marie Brooks' plea in this case.

## **II. ANALYSIS**

### **A. Standard of Review**

Pursuant to statute, this Court's standard of review for a magistrate judge's Report and Recommendation is as follows:

A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made. A judge of the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate [judge].

28 U.S.C. § 636(b)(1). Similarly, Federal Rule of Civil Procedure 72(b) provides for review of a magistrate judge's Report and Recommendation on dispositive motions and prisoner petitions, where objections are made as follows:

The district judge to whom the case is assigned shall make a de novo determination upon the record, or after additional evidence, of any portion of the magistrate judge's disposition to which specific written objection has been made in accordance with this rule. The district judge may accept, reject, or modify the recommendation decision, receive further evidence, or recommit the matter to the magistrate judge with instructions.

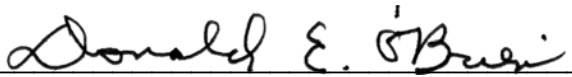
FED. R. CIV. P. 72(b).

As mentioned, waivers of objections to the Report and Recommendation have been filed, and it appears to the Court upon review of Chief Magistrate Judge Zoss's findings and conclusions that there are no grounds to reject or modify them.

**IT IS THEREFORE HEREBY ORDERED** that this Court accepts Chief Magistrate Judge Zoss's Report and Recommendation (Docket No. 50), and accepts defendant Shelle Marie Brooks'

plea of guilty in this case to Counts 1 and 2 of the  
Indictment (Docket No. 2).

**IT IS SO ORDERED** this 14th day of June, 2011.

A handwritten signature in cursive script, reading "Donald E. O'Brien", is written over a horizontal line.

Donald E. O'Brien, Senior Judge  
United States District Court  
Northern District of Iowa